IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the **PATENT APPLICATION** of:	Hunkeler et al.		
Application No.:	10/679,804	Our File:	I-2-0388.1US
Confirmation No.: 3395		Date:	June 17, 2010
Filed:	October 6, 2003		
For: QUALITY OF SERVICE MAPPING BETWEEN VARIOUS TYPES OF WIRELESS COMMUNICATION SYSTEMS			
Group:	2461		
Examiner:	Kibrom T. Hailu		

ARGUMENTS ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF (Via EFS)
Commissioner for Patents
P.O. Box 1450
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Sir:

A Pre-Appeal Brief Review is hereby requested in the above identified patent application, for at least the reason that the Examiner has not cited references which suggest the entire subject matter of independent claims 8, 22, or 26.

Claim 8 is rejected under 35 U.S.C. 103(a) as unpatenable over U.S. Patent No. 6,393,286 to Svensson (hereinafter "Svensson") in view of U.S. Patent No. US 7,242,934 to Kubosawa (hereinafter "Kubosawa"). Claim 8 is directed at a wireless transmit/receive unit (WTRU), and recites in part:

> a translator configured to translate Quality of Service (QoS) requirements of a first wireless communication system of a first type to QoS requirements of a second wireless communication system of a second type; and
>
> an application configured to establish a session in the first wireless communication system using the QoS requirements of the first wireless communication system and, in response to a handover to the second wireless communication system, to continue the session in the second wireless communication system using the translated QoS requirements.

This combination of Svensson and Kubosawa does not suggest *an application configured to . . . continue the session in the second wireless communication system using the translated QoS requirements* as recited in claim 8.

Svensson teaches that a mobile station connects to a Universal Mobile Telecommunications System (UMTS) cell and measure quality of service (QoS) parameters in the cell and in neighboring UMTS cells. *Svensson, column 3, lines 22-39.* The mobile station translates the measured QoS parameters to corresponding Global System for Mobile Communication (GSM) parameters, and transmits the translated parameters to a GSM Base Station Controller (BSC). *Svensson, column 3 line 67-column 4 line 17.* The GSM BSC may then use the translated parameters in making handover decisions. *Svensson, column 4 lines 23-27.*

Nowhere, however, does Svensson suggest that the translated measurement data is used in a session by the mobile station after a handover is performed. Rather, the teachings of Svensson are limited to the use of the translated

measurement data when a handover decision is made—i.e., *before* a handover is performed. Svensson therefore does not suggest an application that is configured to *establish a session in the first wireless communication system using the QoS requirements of the first wireless communication system* and to *continue the session in the second wireless communication system using the translated QoS requirements* (emphasis added) as recited in claim 8.

A similar argument to the argument above regarding Svensson was set forth in the Applicant's Reply of February 3, 2010. In response to this argument, the current Office Action (mailed February 18, 2010) states:

> Basically, the Applicants' argument is that Svensson and Krosawa, in combination, do not disclose "continue the session in the second wireless communication system using the translated QoS requirement". The Examiner respectfully disagrees. Svensson clearly discloses that converting the QoS requirement, such as signal strength or E/I, of one wireless communication system (such as UMTS) to QoS requirements of another wireless communication system (such as GSM) for making handover decisions. Svensson further discloses when handing over from one wireless communication system to another wireless communication system, the conversation or connection or session continues without interruption . . . If the communication, such as speech, doesn't continue when the user entered into different wireless system with a totally different quality of service, there is not need to talk about handing over. Handing over is a means to hand the existing connection from one wireless system or another base station without interrupting the users conversation or session. And that is exactly what is taught by Svensson.

The above-cited portion of the current Office Action asserts that, because Svensson teaches handover, Svensson suggests that the *translated QoS*

requirements are used *in the second wireless communication system*. However, as set forth previously, Svensson teaches that the translated QoS parameters are used only *prior* to handover. Svensson is silent regarding how QoS parameters are handled after a handover. Svensson therefore does not suggest these features of claim 8. Any conclusion to the contrary (such as the conclusion explained in the above-cited portion of the current Office Action) is based on a hindsight reconstruction based on the subject matter of the current claims. As described in MPEP § 2142, "impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of *the facts gleaned from the [cited references]*" (emphasis added).

For the reasons set forth above, Svensson does not suggest *an application . . . configured to . . . continue the session in the second wireless communication system using the translated QoS requirements* as recited in claim 8. As argued in the Applicant's Reply of February 3, 2010 and acknowledged on page 3 of the current Office Action, these features are also not suggested by Kubosawa. These references, taken alone or in combination, therefore do not suggest the *application* of claim 8. For at least this reason, claim 8 is non-obvious over this Svensson and Kubosawa.

Claims 13, 22-23 and 26-27 are also rejected as obvious over Svennson and Kubosawa. Claims 22 and 26, though not identical to claim 8, recite similar elements to those found in claim 8, and are non-obvious over Svensson and

Kubosawa for similar reasons to those set forth above regarding claim 8. Claims 13, 23, and 27 are non-obvious over this combination at least by virtue of their respective dependencies upon claims 8, 22, or 26. Claims 14, 16, 24-25, and 28 are rejected over various combinations of Svensson, Kubosawa, U.S. Patent No. 7,149,524 to Reynolds, and U.S. Patent No. 6,608,832 to Forslow. Reynolds and Forslow do not suggest the features of the independent claims set forth above, and independent claims 8, 22, and 26 are therefore non-obvious any combination of Svensson, Kubosawa, and Reynolds. Claims 14, 16, 24-25, and 28 are non-obvious over this combination at least by virtue of their respective dependencies on claims 8, 22, or 26.

For the reasons set forth above, withdrawal of the § 103(a) rejection of claims 8, 13-14, 16, and 22-28 is respectfully requested.

Respectfully submitted,

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